

June 18, 2012

U.S. Tax Proposals to Help the Renewable Energy Industry

A variety of tax proposals are now under consideration in the U.S. that, if enacted, could help to stimulate investment in U.S. renewable energy projects.

One proposal would expand the beneficial tax attributes of master limited partnerships (MLPs) to renewable energy investments. MLPs are publicly traded investment vehicles, ownership interests in which are traded like corporate stock. While an MLP resembles a traditional corporate vehicle, an MLP that satisfies certain conditions is favorably treated as a partnership for tax purposes. Partnerships are not subject to tax at a corporate level, thereby avoiding the double taxation of profits (that is, tax on corporate income and tax on dividends) applicable to corporate entities, and greatly increasing the potential yield for MLP investors. Current law only allows this special tax treatment for MLPs that invest in oil, natural gas, coal extraction and pipeline projects. Draft legislation has been introduced to extend favorable MLP tax treatment to any entity that invests in renewable energy.

Other proposals — also at the draft stage — would extend the lifetime of two broad categories of tax incentive beyond the end of 2012. The first category is U.S. federal income tax credits based on electrical production that have stimulated investment in the U.S. wind and renewable energy industry over the last few years. The second category — commonly called the “Bush tax cuts” after former President George W. Bush who led the effort for their enactment — includes a reduction in ordinary and capital gains tax rates and other tax incentives.

While there is some bipartisan support for these proposals, it is unclear if and when they will be enacted, for two major reasons. The first is the large U.S. budget deficit and the concern about how to reduce that deficit given the global economic climate. The second is the presidential election that will take place in November. The impending election has led to a tax stalemate in relation to these proposals. It is not clear when this tax stalemate will end.

On June 13, 2012, the Senate Finance Committee held a hearing on energy tax policy. At the hearing, Finance Committee Chairman Max Baucus stated that the United States needs a diverse energy sector and suggested that instead of providing direct energy tax incentives to select technologies, perhaps the U.S. should adopt a more technology-neutral approach. The panelists devoted most of their discussion to tax incentives applicable to the oil and gas industry. As a result, the timing and likelihood of renewable energy tax reform remains unclear.

We will be monitoring this situation closely and keep you informed of further developments. In the meantime, please feel free to contact us with any questions about these proposals or other tax-related questions that may affect you.

For More Information

If you have questions regarding the information in this update, please contact one of the lawyers listed or any Dechert lawyer with whom you regularly work. Visit us at www.dechert.com/tax or www.dechert.com/energy.

Michael Hirschfeld
+1 212 698 3635
michael.hirschfeld@dechert.com

Steven Kolias
+1 202 261 3443
steven.kolias@dechert.com

© 2012 Dechert LLP. All rights reserved. This publication should not be considered as legal opinions on specific facts or as a substitute for legal counsel. It is provided by Dechert LLP as a general informational service and may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

If you are unable to view this e-mail, [click here to view it online](#).

NOTICE:

This e-mail may constitute an advertisement under US and Hong Kong law. If you no longer wish to receive advertising and promotional messages from Dechert LLP or (in Hong Kong) Dechert, please let us know by forwarding this e-mail to opt-out@dechert.com. We can be reached at the following postal addresses: in the US: 1095 Avenue of the Americas, New York, NY 10036-6797 (+1 212 698 3500); in Hong Kong: 27/F Henley Building, 5 Queen's Road Central, Hong Kong (+852 3518 4700); and in the UK: 160 Queen Victoria Street, London EC4V 4QQ (+44 20 7184 7000).

根據香港法例，此電郵或構成廣告。如閣下選擇不再經此電郵地址收取德杰律師事務所的廣告及推廣訊息，請電郵至 opt-out@dechert.com 提出，或閣下可聯絡我所之香港辦事處：
香港中環皇后大道中5號衛怡大廈27樓，電話：+852 3518 4700 傳真：+852 3518 4777